



**3510-16-P**

**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**[Docket No. PTO-P-2019-0037]**

**Grant of Interim Extension of the Term of U.S. Patent No. 6,406,699–ECI® (ELIAS  
Cancer Immunotherapy)**

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Notice of Interim Patent Term Extension.

**SUMMARY:** The United States Patent and Trademark Office has issued an order granting interim extension for a one-year interim extension of the term of U.S. Patent No. 6,406,699.

**FOR FURTHER INFORMATION CONTACT:** Mary C. Till by telephone at (571) 272-7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313-1450; by fax marked to her attention at (571) 273-7755; or by e-mail to [Mary.Till@uspto.gov](mailto:Mary.Till@uspto.gov).

**SUPPLEMENTARY INFORMATION:** Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the

patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On September 23, 2019, TVAX Biomedical I, LLC, the patent owner of record, timely filed an application under 35 U.S.C. § 156(d)(5) for an interim extension of the term of U.S. Patent No. 6,406,699. The patent claims a method of using a veterinary biological product in the cancer immunotherapy treatment ECI® (ELIAS Cancer Immunotherapy), which is the subject of a request for licensure from the United States Department of Agriculture, Center for Veterinary Biologics. The application for patent term extension indicates that PCN 96A7.50 is a product license that was assigned to the request for license from TVAX Biomedical I, LLC on November 7, 2017.

Review of the patent term extension application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. § 156, and that the patent should be extended for one year as required by 35 U.S.C. § 156(d)(5)(B). Because the regulatory review period will continue beyond the original expiration date of the patent, October 5, 2019, interim extension of the patent term under 35 U.S.C. § 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. § 156(d)(5) of the term of U.S. Patent No. 6,604,699 is granted for a period of one year from the original expiration date of the patent.

**Robert Bahr,**

Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

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